

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2205**

**Introduced by Assembly Member Koretz**  
**(Coauthor: Assembly Member Havice)**  
**(Coauthors: Senators Ortiz and Soto)**

February 20, 2002

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An act to amend, repeal, and add Section 30474 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as amended, Koretz. Tobacco products: prevention of sales of untaxed cigarettes: multiagency task force.

The existing Cigarette and Tobacco Products Tax Law imposes a specified tax on the distribution of cigarettes. Existing law also imposes a penalty of \$100 for each carton of 200 cigarettes, or portion thereof, upon any person who knowingly possesses, keeps, stores, or retains for the purpose of sale, or sells, or offers to sell, any package of cigarettes to which there is not affixed a stamp or meter impression. Existing law requires, with regard to the \$100 penalty for the distribution of a carton of black market cigarettes, that the court transmit 50% of the penalty assessed to the local prosecuting jurisdiction and 50% of the penalty assessed to the State Board of Equalization for transmittal to the Treasurer for deposit in the General Fund.

This bill would, for the period beginning on January 1, 2003, and ending on January 1, 2006, increase the penalty for the distribution of black market cigarettes to \$200 per carton, and would provide for the additional \$100 penalty to be deposited in the Unlawful Sales

Reduction Fund, which the bill would create, for appropriation by the Legislature to the ~~State Board of Equalization~~ *Office of Criminal Justice Planning* to be allocated for the funding of a competitive grant program, to be established by the Legislature, to enable grantee cities to establish a multiagency task force for the purpose of significantly reducing the sales of black market cigarettes and creating a deterrent to those sales, through the focused investigation and prosecution of sales of black market cigarettes and other associated offenses and crimes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 30474 of the Revenue and Taxation  
2 Code is amended to read:  
3 30474. (a) This section shall be known as and may be cited  
4 as the Black Market Cigarette and Street Corruption Prevention  
5 Act.  
6 (b) The Legislature finds that the sale of black market, untaxed  
7 cigarettes has resulted in the loss ~~to the state~~ of hundreds of  
8 ~~thousands~~ millions of dollars in revenue to the state, robbing state  
9 healthcare and programs designed to help children.  
10 (c) It is the intent of the Legislature, by enacting the act adding  
11 this subdivision, to provide resources to prosecutors and local law  
12 enforcement personnel, and to enable cities to develop a  
13 multiagency task force, for the purpose of significantly reducing  
14 the sales of black market cigarettes and creating a deterrent to those  
15 sales through the focused investigation and prosecution of sales of  
16 black market cigarettes, and other associated offenses and related  
17 crimes.  
18 (d) Any person who knowingly possesses, or keeps, stores, or  
19 retains for the purpose of sale, or sells or offers to sell, any package  
20 of cigarettes to which there is not affixed the stamp or meter  
21 impression required to be affixed under this part, when those  
22 cigarettes have been obtained from any source whatever, is guilty  
23 of a misdemeanor and shall for each offense be fined not more than  
24 one thousand dollars (\$1,000), or be imprisoned for not exceeding  
25 one year in a county jail, or be subject to both fine and  
26 imprisonment, in the discretion of the court. In addition to the fine  
27 or sentence, or both, each person convicted under this section shall

1 pay two hundred dollars (\$200) for each carton of 200 cigarettes,  
 2 or portion thereof, knowingly possessed, or kept, stored, or  
 3 retained for the purpose of sale, or sold or offered for sale in  
 4 violation of this section, as determined by the court. The court shall  
 5 direct that 50 percent of the first one hundred dollars (\$100.00) of  
 6 the penalty assessed be transmitted to the local prosecuting  
 7 jurisdiction, to be allocated for costs of prosecution, and 50 percent  
 8 of the *first one hundred dollars (\$100) of the* penalty assessed be  
 9 transmitted to the State Board of Equalization. The court shall  
 10 direct that the second one hundred dollars (\$100) of the penalty  
 11 assessed shall be transmitted to the Controller for deposit in the  
 12 Unlawful Sales Reduction Fund, which is hereby created. Upon  
 13 appropriation by the Legislature, the moneys in the fund shall be  
 14 allocated to the ~~State Board of Equalization~~ *Office of Criminal*  
 15 *Justice Planning* for the funding of a competitive grant program  
 16 to be established by the Legislature to enable grantee cities to  
 17 establish a multiagency task force, the composition of which shall  
 18 include prosecutors and local law enforcement personnel, for the  
 19 purpose of significantly reducing the sales of black market  
 20 cigarettes, and creating a deterrent to those sales through the  
 21 focused investigation and prosecution of sales of black market  
 22 cigarettes and other associated offenses and related crimes. No  
 23 more than 5 percent of the amount transmitted from the second one  
 24 hundred dollars (\$100) of the penalty assessed may be ~~retained by~~  
 25 ~~the board to fund the board's costs of administering the retained~~  
 26 ~~to fund the costs of administering the~~ competitive grant program.

27 (e) *The Office of Criminal Justice Planning shall consult with*  
 28 *the State Board of Equalization in the administration of the*  
 29 *competitive grant program.*

30 (f) This section shall be operative for the period beginning on  
 31 January 1, 2003, and ending on January 1, 2006, and as of that date  
 32 this section shall be repealed unless a later enacted statute extends  
 33 the operation of this section.

34 ~~SEC. 2. Section 30474 of the Revenue and Taxation Code is~~  
 35 ~~amended to read:~~

36 *SEC. 2. Section 30474 is added to the Revenue and Taxation*  
 37 *Code, to read:*

38 30474. (a) Any person who knowingly possesses, or keeps,  
 39 stores, or retains for the purpose of sale, or sells or offers to sell,  
 40 any package of cigarettes to which there is not affixed the stamp

1 or meter impression required to be affixed under this part, when  
2 those cigarettes have been obtained from any source whatever, is  
3 guilty of a misdemeanor and shall for each offense be fined not  
4 more than one thousand dollars (\$1,000), or be imprisoned for not  
5 exceeding one year in a county jail, or be subject to both fine and  
6 imprisonment, in the discretion of the court. In addition to the fine  
7 or sentence, or both, each person convicted under this section shall  
8 pay one hundred dollars (\$100) for each carton of 200 cigarettes,  
9 or portion thereof, knowingly possessed, or kept, stored, or  
10 retained for the purpose of sale, or sold or offered for sale in  
11 violation of this section, as determined by the court. The court shall  
12 direct that 50 percent of the penalty assessed be transmitted to the  
13 local prosecuting jurisdiction, to be allocated for costs of  
14 prosecution, and 50 percent of the penalty assessed be transmitted  
15 to the State Board of Equalization.  
16 (b) This section shall become operative on January 1, 2006.

